

**STETSON SCHOOL**  
455 South Street  
Barre, MA 01005  
Phone 978-355-4541 • Fax 978-355-4901  
E-mail [zbardossy@stetsonschoool.org](mailto:zbardossy@stetsonschoool.org)

February 9, 2012

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554  
ELECTRONICALLY FILED VIA ECFS

Re **CC Docket No. 02-6**  
Petition for Waiver of FCC Form 486 filing deadline  
Form 471 Application Nos. 767835 (FY2010), 768651 (FY2010)  
Applicant: Stetson School, BEN 19

Dear Secretary Dortch,

With this letter Stetson School requests a waiver of the FCC Form 486 filing deadline in the case of funding requests within each captioned funding application under the Schools and Libraries Universal Service Support Mechanism ("E-Rate").

**Background**

Stetson School accommodates children and adolescents with sexual behavior problems from grades four through high school. We maintain the belief that every child can succeed, and that every child deserves the opportunity to become a confident, capable adult, and a productive member of the community.

For the FY2010 Funding Year Stetson School did prepare and submit FCC Form 486. However, due to an unfortunate clerical error, at the time of the Form 486 submission more than 120 days had passed since the release of the two earliest Funding Commitment Decision Letters ("FCDL"). We missed the Form 486 filing deadline by about four weeks in the case of the earliest FCDL (for FRN 2078938), and by about five weeks in the case of the second FCDL (for FRN 2076255). The fact that our FY2010 FCDLs were not issued until March, April, and May of 2011 was a contributing factor to our confusion and the subsequent clerical error.

If SLD's procedures for missing a Form 486 filing deadline were to be strictly applied, the result would be a loss of more than 75% of committed funding for the two affected Funding Requests – and it would be our students who would bear the consequences of this unfortunate clerical error.

## Analysis

Due to factors not reasonably within its control, Stetson School was unable to fully comply with the requirement to file Form 486 by the normal 120 day limit after the latter of the service start date and the Funding Commitment Decision Letter date for the following funding applications: 767835 (FY2010), 768651 (FY2010). To the best of our knowledge, our E-rate funding application is otherwise in full compliance with all FCC rules and USAC requirements.

In *Alaska Gateway*<sup>1</sup>, the Federal Communication Commission's ("Commission") Wireline Competition Bureau ("Bureau") found that where special circumstances are present and a Form 486 was not filed on a timely basis, good cause exists to grant a waiver of the filing deadline and direct USAC to process the applicant's Form 472 reimbursement application without a postponement of the funding start date. The Bureau noted that in these cases the applicants missed a procedural deadline and did not violate a substantive rule. The Bureau has consistently applied the *Alaska Gateway* standard in subsequent orders granting waivers of the Form 486 filing deadline, including *State of Arkansas Department of Information Systems*<sup>2</sup>, *Alcona County Library*<sup>3</sup>, *Children of Peace School*<sup>4</sup>, *Academy St. Benedict – Stewart*<sup>5</sup>, *Bancroft Neurohealth*<sup>6</sup>, and *Archdiocese of Chicago School*<sup>7</sup>.

The cited orders were consistent with *Bishop Perry*<sup>8</sup>, where the Commission found that under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Communications Act of 1934, as amended – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.

The Bureau further noted in *Alaska Gateway* and in *Alcona County Library* that denying the petitioners' requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. That would certainly be the case if Stetson School were to be denied the opportunity to request reimbursement for its eligible expenses. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

---

<sup>1</sup> *Alaska Gateway School District et al*, 21 FCC Rcd 10182 (DA 06-1871)

<sup>2</sup> *State of Arkansas Department of Information Systems et al*, 23 FCC Rcd 9373 (DA 08-1418)

<sup>3</sup> *Alcona County Library et al*, 23 FCC Rcd 15500 (DA 08-2379)

<sup>4</sup> *Children of Peace School et al*, 25 FCC Rcd 5492 (DA 10-855)

<sup>5</sup> *Academy St. Benedict – Stewart et al*, 25 FCC Rcd 17309 (DA 10-2352)

<sup>6</sup> *Bancroft Neurohealth et al*, 26 FCC Rcd 10948 (DA 11-1239)

<sup>7</sup> *Archdiocese of Chicago School* (DA 12-28)

<sup>8</sup> *Bishop Perry Middle School et al*, 21 FCC Rcd 5316 (FCC 06-54)

Regarding the matter of the timeliness of the filing of instant petition, in its analysis in *Alaska Gateway*<sup>9</sup> of the 128 petitions under consideration (which included petitions framed as requests for *waivers* of the Form 486 filing deadline) the Bureau cited its authority to "waive any provision of its own rules" (47 CFR §1.3). Although strictly speaking the Form 486 filing deadline is a USAC Schools and Libraries Division procedural requirement (rather than an FCC rule), the Bureau implicitly (and correctly) concluded that its authority to waive an FCC rule also provided authority to waive a USAC requirement for which USAC's authority is derived from an FCC rule<sup>10</sup>. (One might consider the Bureau's grant of a waiver of a USAC requirement to actually be a limited *waiver of the Commission rules which grant USAC authority* to make and enforce a specific E-Rate procedural requirement.)

Instant petition is a request for a waiver and is not an appeal of any particular USAC SLD decision. In particular, Stetson School has not yet requested reimbursement (on FCC Form 472) from USAC SLD for expenses incurred earlier than 120 days before the filing of Form 486 for any particular funding request, so SLD has not had the opportunity to issue a decision denying reimbursement. Therefore, the appeal filing deadline provision of 47 CFR §54.720 should not apply.

Nevertheless, if the Bureau finds that any decision already made by the USAC has tolled the beginning of a 60-day appeal period which has already passed, Stetson School respectfully requests that the Bureau waive the provisions of 47 CFR §54.720 to the extent necessary to consider and grant instant petition. Such a waiver would be consistent with precedent, as the Bureau has granted waivers of §54.720 (as well as waivers of the Form 486 filing deadline) to petitioners in *Academy of St. Benedict – Stewart*, *Bancroft Neurohealth*, and *Archdiocese of Chicago School*.

### **Request for Relief**

For the reasons stated in this letter, Stetson School respectfully requests that the Bureau grant a waiver of the FCC Form 486 filing deadline for the cited E-rate funding applications. We also ask that the Bureau, consistent with precedent, direct USAC to waive any of its subsequent deadlines related to the late-filed FCC Form 486<sup>11</sup>.

In the event that the Bureau finds that the provisions of 47 CFR §54.720 apply to this petition, Stetson School respectfully requests that the Bureau grant a waiver of this rule to the extent necessary to consider and grant this petition.

Finally, on behalf of our current students, Stetson School respectfully requests that the Bureau expedite consideration of this petition. Timely action by the Bureau would support the goals of the E-Rate program, especially with respect to our current students

---

<sup>9</sup> *Alaska Gateway School District et al*, paragraph 5

<sup>10</sup> The responsibilities of the Universal Service Fund Administrator are enumerated at 47 CFR 54 Subpart H

Ms. Marlene H. Dortch  
February 9, 2012  
Page 4 of 4

whose educational success would be compromised by a delay in our receipt of our committed FY2010 E-Rate reimbursement funds.

STETSON SCHOOL

A handwritten signature in black ink, reading "Zoltan Bardossy". The signature is written in a cursive style with a large, stylized 'Z' and 'B'.

Zoltan Bardossy  
Director of Information Technology

---

<sup>11</sup> E.g., see *Children of Peace School et al*, footnote 24